

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

LEE SCHMIDT and CRYSTAL ARRINGTON,

Plaintiffs,

v.

CITY OF NORFOLK, the NORFOLK POLICE
DEPARTMENT, and MARK TALBOT, in his
official capacity as the Norfolk Chief of Police,

Defendants.

Civil Case No. 2:24-cv-00621-MSD-LRL

**PLAINTIFFS' UNOPPOSED MOTION TO DISMISS THE NORFOLK POLICE
DEPARTMENT WITHOUT PREJUDICE, SUBJECT TO CONDITIONS**

Plaintiffs Lee Schmidt and Crystal Arrington respectfully request that the Court dismiss this action without prejudice as to Defendant Norfolk Police Department (the “NPD”), subject to conditions agreed upon by the parties. In support of this motion, Plaintiffs state as follows:

1. Plaintiffs filed their complaint in this case on October 21, 2024. Doc. 1.
2. Defendants filed a motion to dismiss on November 25, 2024. Doc. 18. Among other things, their motion seeks dismissal of the NPD for lack of personal jurisdiction, pursuant to Federal Rule of Civil Procedure 12(b)(2). *See* Doc. 18, PageID# 72; Doc. 19, PageID# 96–97.
3. In an effort to streamline the issues for the Court to resolve, undersigned counsel contacted counsel for Defendants on December 9, 2024, to propose that the parties stipulate to the dismissal of the NPD, provided the remaining Defendants (i) will provide discovery from and on behalf of the NPD, (ii) will not in the future argue that the NPD is a necessary party, and (iii) agree that any relief ordered against the remaining defendants will bind the NPD to the same extent as if it had been a party to the case.

4. On December 10, 2024, counsel for Defendants responded that Defendants agreed to stipulate to the dismissal of the NPD subject to the conditions Plaintiffs outlined for the purposes of this litigation in this Court only, and, if appealed, in any appellate court.

Accordingly, Plaintiffs respectfully request that the Court enter the attached consent order, dismissing the NPD from this action without prejudice, subject to the conditions outlined above.

DATED: December 11, 2024

Respectfully submitted,

/s/ Robert Frommer

Robert Frommer
(VA Bar No. 70086)
Joshua Windham
(NC Bar No. 51071)*
Michael B. Soyfer
(NY Bar No. 5488580; DC Bar No. 230366)*
Institute for Justice
901 N. Glebe Rd., Suite 900
Arlington, VA 22203
Tel: (703) 682-9320
Fax: (703) 682-9321
rfrommer@ij.org
jwindham@ij.org
msoyfer@ij.org

Attorneys for Plaintiffs

*pro hac vice